

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES COTTON,

Plaintiff,

vs.

DOUGLAS COUNTY DEPARTMENT
OF CORRECTIONS,
DOUGLAS COUNTY, NEBRASKA,
and JACQUELINE ESCH, in her
official capacity as a medical doctor
of Douglas County Corrections,

Defendants.

8:16CV153

ORDER

This matter is before the court on the plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Filing No. 2), which includes an affidavit regarding his financial status. Additionally, the plaintiff attached a certified copy of a notarized document titled "Inmate Postings." **See** Filing No. 2 p. 3-4. The Inmate Postings, dated February 29, 2016, appears to include entries for debits and credits to the plaintiff's inmate financial account from August 7, 2015, through February 25, 2016. **Id.** The plaintiff filed the application on the same date as his complaint, April 14, 2016. **See** Filing Nos. 1 and 2.

The Prison Litigation Reform Act "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." ***In re Tyler***, 110 F.3d 528, 529-30 (8th Cir. 1997); ***Jackson v. N.P. Dodge Realty Co.***, 173 F. Supp. 2d 951 (D. Neb. 2001). Nevertheless, prisoner plaintiffs may pay the full amount of the court's \$400.00 filing fee by making monthly payments to the court. 28 U.S.C. § 1915(b). The statute requires the plaintiff to file an affidavit and "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period ***immediately preceding*** the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2) (emphasis added). The plaintiff's filing does not comply with the statute. Accordingly,

IT IS ORDERED:

The plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Filing No. 2) is denied without prejudice to reassertion following submission of a proper trust account statement.

Dated this 15th day of April, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge